

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:15-cv-00122-FDW

NAPOLEON J. RANKIN BEY,  
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)  
Plaintiff,  
)  
)  
v.  
)  
STAFF AND OFFICERS,  
)  
Avery-Mitchell C.I.,  
)  
Defendants.  
)  
)

## ORDER

STAFF AND OFFICERS,  
Avery-Mitchell C.I.,  
Defendants.

**THIS MATTER** is before the Court on an initial review of the pro se complaint which Plaintiff filed pursuant to 42 U.S.C. § 1983. For the reasons that follow, this action will be dismissed.

## I. BACKGROUND

Plaintiff is a prisoner of the State of North Carolina who is presently housed in the Avery-Mitchell Correctional Institution within this District. In his complaint, Plaintiff contends that he is being subjected to racial discrimination, and he complains that there are no African-American staff or officers employed in the “front offices.” (1:15-cv-122, Doc. No. 1: Compl. at 1). Plaintiff also appears to question whether his participation in the administrative remedy procedure would be futile.

## II. STANDARD OF REVIEW

Pursuant to 28 U.S.C. § 1915(A)(a), “the court shall review ... a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.” During this review, the “court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint— (1) is frivolous, malicious, or

fails to state a claim upon which relief may be granted; or (2) seeks monetary relief from a defendant who is immune from such relief.” Id. § 1915A(b)(1) and (b)(2).

Upon review, this Court must determine whether the complaint raises an indisputably meritless legal theory or is founded upon clearly baseless factual contentions, such as fantastic or delusional scenarios. Neitzke v. Williams, 490 U.S. 319, 327–28 (1989). While a pro se complaint must be construed liberally, Haines v. Kerner, 404 U.S. 519, 520 (1972), the liberal construction requirement will not permit a district court to ignore a clear failure to allege facts in the complaint which set forth a claim that is cognizable under federal law. Weller v. Dep't of Soc. Servs., 901 F.2d 387, 391 (4th Cir. 1990).

### III. DISCUSSION

Plaintiff’s complaint will be dismissed for the simple reason that he has not identified any individual defendant that may have allegedly violated his federally protected rights. 28 U.S.C. § 1915A(b)(1).

**IT IS, THEREFORE, ORDERED** that Plaintiff’s complaint is **DISMISSED without prejudice** for failure to state a claim. (Doc. No. 1).

The Clerk of Court is respectfully directed to close this civil case.

**IT IS SO ORDERED.**

Signed: July 2, 2015



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Frank D. Whitney  
Chief United States District Judge

